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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/579,888

05/18/2007

Thomas Kiepe

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EXAMINER

PERREAULT, ANDREW D

ART UNIT

PAPER NUMBER

4177

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,888	<b>Applicant(s)</b> KIEPE, THOMAS	
	<b>Examiner</b> ANDREW PERREAULT	<b>Art Unit</b> 4177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/18/07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-4 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "the outer shell of the container." There is insufficient antecedent basis for this limitation in the claim.
4. Claim 1 recites the limitation "two diametrically oppositely arranged elastically deformable pressure pieces (12)," while claim 2 recites the limitation "three pressure pieces (12)." Claim 3 further recites the limitation "a continuous pressure piece," in which one continuous pressure piece has already been disclosed. The number of pressure pieces is unclear.
5. Claim 4 recites the limitation "the bottom surface ." There is insufficient antecedent basis for this limitation in the claim.
6. Claim 8 recites the limitations "the inner wall of the sleeve" and "the container spacers." There is insufficient antecedent basis for these limitations in the claim.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 6-7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graf et al. (5257726) in view of Bruckner et al. (5348193).

9. As to claim 1, as best understood, Graf et al. discloses a packing 2 (fig. 2) consisting of a sleeve 9 (fig. 2) provided with a cavity, and a cap ("casing 2, whose basic body is only open to one side in the manner of a cap," col. 3, lines 14-16) that can be connected to the sleeve 9 (fig. 2), wherein in said cavity of the sleeve 9 a container 14 (fig. 2) which has an outer surface and which is especially made of plastic ("simple article made from plastic or the like," col. 1, line 55) is arranged, preferably for receiving liquid ("liquid material," col. 1, lines 38-39) to be dispensed by a dispensing device 7 (fig. 2), and wherein said container 14 is fixed in a receiver 12 (col. 3, lines 61-65; fig. 2) in the region of the end of the sleeve 9 directed away from the cap, but does not disclose that the receiver has two diametrically oppositely arranged elastically deformable pressure pieces with a shape conforming the outer surface of the container. However, Bruckner et al. teaches a similar packing 10 (fig. 1) provided with a container 16, a receiver 12, and a dispensing device 32 wherein the receiver 12 has two diametrically oppositely arranged elastically deformable pressure pieces 15 with a shape conforming the outer surface of the container 16 (col. 3, lines 28-45; fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in the Graf et al. reference, such that the receiver has two diametrically oppositely arranged elastically deformable pressure pieces with a shape conforming the outer surface of the container, as suggested and

taught by Bruckner et al., for the purpose of assisting in holding the container securely in place (col. 3, lines 28-45; fig. 1).

10. As to claim 2, as best understood, Buckner et al. discloses that two pressure pieces 15 are arranged with equal distances to each other on arc of a circle (col. 3, lines 28-45; fig. 1).

11. As to claim 3, as best understood, Buckner et al. discloses that the receiver 12 including one of the continuous pressure pieces 15 contains a recess in the central portion thereof and being elastically deformable at least in the region of walls of the recess (col. 3, lines 28-45; fig. 1).

12. As to claim 6, Graf et al. discloses that the container 14 includes an outer thread and the receiver 12 a corresponding inner thread (fig. 2).

13. As to claim 7, Graf et al. discloses that the sleeve 9 and the container 14 are formed as one piece (fig. 2)

14. As to claim 9, Graf et al. discloses that the dispensing device 7 is formed as a spray head 32b ("spray nozzle," col. 7, lines 35-36), as a supported dispensing ball 28, 28a (col. 5, line 54; fig, 2, 4).

15. As to claim 10, Graf et al. discloses that the dispensing device 7 extends in the direction of the cap (fig. 2).

16. As to claim 11, Graf et al. discloses that that the cap almost fully grips over the sleeve 9 (fig. 2) and that the sleeve 9 has a finger rest 37 which is not covered by the cap (fig. 2).

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17. As to claim 12, Graf et al. discloses that the sleeve 9 includes a shoulder 8 (fig. 2), of which the outer diameter substantially corresponds to the outer diameter of the cap (col. 3, lines 35-45).

18. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graf et al. in view of Buckner et al. and further in view of Brainerd et al. (3881628).

19. As to claim 4, as best understood, the combined reference discloses the claimed invention but does not disclose that the receiver includes a cushion member in the region of a bottom surface. However, Brainerd et al. teaches a similar packing including a receiver 11 (fig. 2) with a bottom surface ("plastic base of housing," col. 5, line 57) wherein the receiver 11 includes a cushion member 21 in the region of the bottom surface (col. 5, lines 57-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in combined reference, such that the receiver includes a cushion member in the region of a bottom surface, as suggested and taught by Brainerd et al., for the purpose of supporting the receiver.

20. Claim 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graf et al. in view of Buckner et al. and further in view of Brand et al. (2003/0136800).

21. As to claim 5, the combined reference discloses the claimed invention but does not disclose that the container is glued inside the receiver. However, Brand teaches a similar packing including a receiver ("sleeve," paragraph 33) and a container ("device," paragraph 33) wherein the container is glued inside the receiver ("adhesive means," paragraph 33). Therefore, it would have been obvious to one of ordinary skill in the art

at the time the invention was made to modify the device in combined reference, such that the container is glued inside the receiver, as suggested and taught by Brand et al., for the purpose of attaching the container to the receiver and firmly holding the container in place.

22. As to claim 8, as best understood, the combined reference discloses the claimed invention but does not disclose that above the receiver between an inner wall of the sleeve and an outer shell of container spacers are arranged which especially centre the container within the sleeve. However, Brand teaches a similar packing including a receiver 50, a container 20, and a sleeve 10, wherein that above the receiver 50 between an inner wall of the sleeve 10 and an outer shell of container spacers ("spacer ribs", paragraph 54) are arranged which especially centre the container 20 within the sleeve 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in combined reference, such that above the receiver between an inner wall of the sleeve and an outer shell of container spacers are arranged which especially centre the container within the sleeve, as suggested and taught by Brand et al., for the purpose of holding the external surface of the container spaced from the internal surface of the sleeve (paragraph 54).

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Landwehr et al. (5738067), Quenessen (5499747), Meshberg (3254803), Meshberg (5516006), Miller et al. (5875934), Miller et al. (5862960), Van

Geert et al. (6983843), Chibret et al. (6336571), Ritsche et al. (2001/0013525), and Revenu (6053363) disclose a packing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW PERREAULT whose telephone number is (571)270-5427. The examiner can normally be reached on Monday - Friday, 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quang D. Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P./  
Examiner, Art Unit 4177

/Quang D. Thanh/  
Supervisory Patent Examiner,  
Art Unit 4177